

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

EXXON MOBILE CORPORATION,

Plaintiff,

vs.

AECOM ENERGY &  
CONSTRUCTION, INC., and  
AECOM,

Defendants.

CV 19-107-BLG-SPW

ORDER ADOPTING  
FINDINGS AND  
RECOMMENDATIONS

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations, filed January 31, 2024. (Doc. 170). Judge Cavan recommended the Court grant in part and deny in part Defendant AECOM Energy & Construction, Inc.'s Motion for Partial Summary Judgment (Doc. 130), deny Defendant AECOM Energy & Construction, Inc.'s Motion to Strike (Doc. 152), and grant in part and deny in part Plaintiff Exxon Mobil Corporation's Motion for Partial Summary Judgment (Doc. 137).

The parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendations. 28 U.S.C. § 636(b)(1). Neither party objected to the Findings and Recommendations, and so waived their right to de novo review of the record. *See* 28 U.S.C. § 636(b)(1)(C). This Court reviews for

clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *Government of Guam v. Guerrero*, 11 F.4th 1052, 1059 (9th Cir. 2021) (quoting *C.I.R. v. Duberstein*, 363 U.S. 278, 291 (1960)). After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error.

Accordingly, IT IS HEREBY ORDERED:


1. Judge Cavan’s Findings and Recommendations (Doc. 170) are ADOPTED IN FULL.

2. Defendant AECOM Energy & Construction, Inc.’s Motion to Strike (Doc. 152) is DENIED with prejudice as to the contractual indemnification evidence and DENIED without prejudice as to the hot spot evidence.

3. Defendant AECOM Energy & Construction, Inc.’s motion for partial summary judgment (Doc. 130) is GRANTED as to Exxon’s punitive damages claim and DENIED in all other respects.

4. Exxon Mobil’s Corporation’s Motion for Partial Summary Judgment (Doc. 137) is GRANTED as to AECOM Energy & Construction Inc.’s Prompt Payment Act claim, cardinal change claim, and unjust enrichment claim, and DENIED in all other respects.

DATED this 15<sup>th</sup> day of February, 2024.

  
SUSAN P. WATTERS  
United States District Judge